

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6763

BILL NUMBER: SB 212

DATE PREPARED: Feb 14, 2002

BILL AMENDED: Feb 14, 2002

SUBJECT: Sale of Recalled Products.

FISCAL ANALYST: John Parkey

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**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that the sale of a recalled product is a deceptive consumer sale, unless the product has been repaired. The bill provides an affirmative defense if the recalled product has been altered so that the product was rendered incapable of serving its original purpose.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) The bill would include the sale or resale of a product that has been recalled in the Deceptive Consumers Sales Act, unless the product has been repaired. As a result, the Office of the Attorney General could experience additional expenses associated with bringing legal action against violators. However, the additional expenses could be absorbed given the Office's existing budget or through collection of attorney's fees from a guilty party.

Explanation of State Revenues: A person or a class of people relying upon an uncured or incurable deceptive act may bring a civil action for damages actually suffered. If filings of civil actions in Indiana courts increased as a result, revenues to the State General Fund could increase. The filing fee for civil actions is \$100. Of this fee, 70% or \$70 is deposited in the State General Fund if the case is filed in a trial court. If a civil case is filed in a city or town court (providing the court has jurisdiction), the State General Fund receives 55% of the \$100 filing fee.

Additionally, the court may do any of the following under the Deceptive Consumer Sales Act: award reasonable attorney's fees to the prevailing party, issue an injunction (if a party violates the injunction, it must pay the state up to \$15,000 per violation), order payment to the state for reasonable costs of the Attorney General's investigation and prosecution, void or limit the application of contracts, order restitution paid to aggrieved consumers, order payment to the state of \$500 per violation if a supplier knowingly committed an act constituting a deceptive sale or deceptive and unconscionable act, and if appropriate, allow an elderly person who relies on an uncured or incurable deceptive act to recover treble damages.

Explanation of Local Expenditures: Any additional filings under this specific cause of action will have a minimal impact on the caseloads of trial or city and town courts. The operating expenses of the trial courts are paid by the county general fund. The expenses of the city and town courts are paid by the general fund of the city or town in which the court is located.

Explanation of Local Revenues: If a case is filed in a trial court, the county general fund receives 27% or \$27 of the filing fee. The other 3% or \$3 is deposited in the general fund of the cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a circuit, superior, county or municipal court located in the county. If the case is filed in a city or town court (providing the court has jurisdiction), the county general fund receives 20% while the city or town general fund receives 25%.

State Agencies Affected: Attorney General.

Local Agencies Affected: Courts of record and some city and town courts; clerks.

Information Sources: